

REMARKS/ARGUMENTS

Upon entry of this amendment, claims 1-20 will be canceled without prejudice or disclaimer of the subject matter recited therein, and prior to cancellation of claims 1-20, claims 21-54 will be added. Therefore, claims 21-54 will be pending with claims 21, 42, 53 and 54 being independent claims.

Reconsideration and allowance of the application are respectfully requested.

Discussion Of Telephone Conversations With The Examiner Regarding Pending Claims

Applicants note that upon review of the Office Action it was noted that the Office Action is not a complete action on the merits, because claims 12-17 have not been examined. In this regard, the Office Action indicates in the Cover Sheet of the Office Action and the indefiniteness rejection under 35 U.S.C. 112, second paragraph, that only claims 1-11 are present even though Applicant's June 11, 2002 amendment added claims 7-17. Moreover, the body of the Office Action indicates that only claims 1-11 are presented in the amendment.

During an August 31, 2004 telephone call with the Examiner, the Examiner reviewed the documents in the Image File Wrapper (IFW) and confirmed that claims 11-17 were present but were not entered in the correct location in the IFW.

Still further, upon preparing the response to the present Office Action, it was noted that the International Preliminary Examination Report (IPER) incorrectly indicates that examination was based on claims 1-6 presented during September 26, 2001. In this regard, the IPER also references claims 1-20 when listing novelty and inventive step. Therefore, the IPER is incorrect

in the indicated claims under examination, and the pending claims are, in fact, claims 1-20, with claims 1-6 being included in the replacement sheet.

Accordingly, the undersigned contacted the Examiner on October 18, 2004 to discuss the fact that the originally presented claims 1-20 from the International Application were, in fact, pending, and that Applicants would submit a clarifying amendment to present the claims from the June 11, 2002 Preliminary Amendment and claims conforming with the originally presented claims. The Examiner agreed that the easiest way to accomplish this clarification would be to cancel claims 1-20 and present a new set of claims. The Examiner also indicated that Applicants should present the circumstances surrounding the pending claims in writing to assist the Examiner's review of the record.

Accordingly, the present amendment cancels claims 1-20 and presents claims 21-54 which substantially includes the process claims submitted in Applicants' Preliminary Amendment, as well as substantially including process and apparatus claims including subject matter included in claims 7 to 20 of the IPER.

Response To Objection To Abstract

Applicants have amended the Abstract in response to the objection to the Abstract of the Disclosure set forth in the Office Action. Accordingly, this ground of objection should be withdrawn.

Claim of Priority

Applicants express appreciation for the acknowledgement of the claim of priority, and receipt of all certified copies in this national stage application.

Information Disclosure Statements

Applicants express appreciation for the inclusion of initialed copies of the Forms PTO-1449 included with the Office Action confirming the Examiner's consideration of Applicant's Information Disclosure Statement, May 1, 2002, and Supplemental Information Disclosure Statement, filed June 11, 2002.

Response To 35 U.S.C. 112, Second Paragraph, Indefiniteness Rejection

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. In response, Applicants respectfully submit that the claims as pending prior to the instant amendment are definite. However, in order to advance prosecution of the application, the claims have been amended to address the issues raised in the rejection.

In particular, "shaft-like" has been rewritten as ---shaft-shaped---. Moreover, claim 2 has been amended to recite ---the substantially decomposed products comprise recoverable waste products comprising coke....

Accordingly, this ground of rejection should be withdrawn.

Response To Rejections

The following rejections set forth in the Office Action are as follows:

(a) Claims 1-3, 5, 7, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Uemura et al. (hereinafter "Uemura"), U.S. Patent No. 4,308,806, or under 35 U.S.C. 103(a) as being unpatentable over Uemura in view of Sawai, JP '01239309 A.

(b) Claims 4, 6, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uemura in view of Sawai, JP '01239309 A, and further in view of what the Examiner considers to be well known in the art.

In response to these grounds of rejection, Applicants note that Uemura is being utilized in the rejections in an attempt to show a tangential supply of waste gases and an axial supply of air. However, while it appears that Uemura discloses axial supply of air through 19, Uemura does not appear to show a tangential supply of waste gases. In this regard, even if it is found that waste gases can be supplied through 14, 16 of Uemura such nozzles 16 appear to circumferential feed the gas in a radial and not tangential direction. Still further, Uemura does not teach or suggest the downward discharge of dried, separated, classified, and substantially decomposed products from the chamber. Accordingly, for at least these reasons, Uemura does not teach or suggest Applicants' invention as recited in independent claim 21 and the claims dependent therefrom.

Sawai is utilized as an alternative obviousness rejection in an attempt to establish that it would have been obvious to modify the invention of Uemura by introducing exhaust gas into said chamber for a more efficient waste handling process. However, whether or not one having ordinary

skill in the art would have been modified to combine Uemura and Sawai, Applicants' invention would not be at hand for at least the reasons noted above.

Moreover, the rejection of claims over well known features in the prior art is not a proper rejection. In this regard, these assertions are merely naked assertions without any support in the prior art. Applicants respectfully submit that an obviousness rejection cannot be supported by mere allegations that it would have been obvious to arrive at Applicants' invention or that something is well known. The Examiner is reminded that a rejection must be based upon documentary evidence, and not merely official notice. In this regard, the Examiner's attention is directed to MPEP 2144.03 wherein it is noted that, "If the applicant traverses such an assertion the examiner should cite a reference in support of his or her position." In the instant situation, Applicants respectfully submit that the rejection is improper as not utilizing documentary evidence to support the position taken in the rejection. The rejection merely makes an assertion of obviousness, but does not support this assertion by documentary evidence.

Moreover, no documentary evidence supports the naked assertion that one having ordinary skill in the art would have modified the invention of Uemura in view of Sawai as is well known in the art. There is not the slightest documentary evidence to arrive at Applicants' disclosed and claimed invention.

Thus, in the unlikely event that the rejection is maintained, Applicants request that the rejection be modified to include documentary evidence supporting the position taken in the rejection.

Moreover, attention is directed to In re Ahlert and Kruger, 424 F.2d 1088, 165 USPQ 418, 420-421 (CCPA 1970), which is cited in MPEP 2144.03. In Ahlert, at 165 USPQ 421, it is stated that:

Typically, it is found necessary to take notice of facts which may be used to supplement or clarify the teaching of a reference disclosure, perhaps to justify or explain a particular inference to be drawn from the reference teaching. The facts so noticed serve to “fill in the gaps” which might exist in the evidentiary showing made by the examiner to support a particular ground of rejection. We know of no case in which facts judicially noticed comprised the principal evidence upon which a rejection was based or were of such importance as to constitute a new ground of rejection when combined with the other evidence previously used.

In the instant case, the rejection improperly utilizes Official Notice, not to “fill in the gaps”, but to provide a complete reasoning behind modification of the references. Accordingly, Applicants submit that it is improper to make such naked assertion in the instant case, and a reference must be utilized in the rejection that not only discloses Applicants’ recited concept, but also provides motivation for modifying the documents to include Applicants’ recited features. This would afford Applicants an opportunity to address issues of lack of motivation for combining separate disclosures as well as an opportunity to argue against any asserted combination.

Still further, Applicants note that Uemura contains a reactor for burning waste materials, which reactor comprises a hollow body with a gas outlet located at the upper end and a bottom plate at the lower end. This bottom plate contains a central opening for introducing oxidizing gas. Furthermore, the bottom plate is embodied in a cone-shaped manner with a plurality of openings disposed over the circumference for introducing pressurized oxidizing gas. At least a

portion of the oxidizing gas can thereby comprise recycled combustion gas. As noted above, there does not appear to be any disclosure of discharge of solids from this area.

According to the present solution, the shaft-shaped reaction chamber can have a funnel-shaped base that has separate openings for introducing air and exhaust gases from a degassing and/or gasification process. The openings for air are arranged axially for introducing air from below. The openings for the exhaust gases are embodied for a tangential intake, or a tangential or radial intake, as recited independent claims 53 or 54, in the area of the funnel-shaped base in the reaction chamber. Furthermore, there is an opening in the funnel-shaped base for the discharge of the solid reaction products. There is a gas discharge opening in the upper part of the reaction chamber.

In contrast to Applicants' invention, Uemura relates to a combustion reactor while the present invention relates to a reactor that processes combustion products. Furthermore, in Uemura, oxidizing gases need to be used because such gases are essential for a combustion process. Also the partial replacement of the oxidizing gases by recycled combustion gases can take place only as long as at least the combustion process can be maintained. According to Applicants' invention, the waste products from a degassing and/or gasification process of waste products can be decomposed, e.g., by cracking. An oxidizing gas is not necessary for such decomposition. Moreover, as noted above, solids do not appear to be downwardly discharged in Uemura.

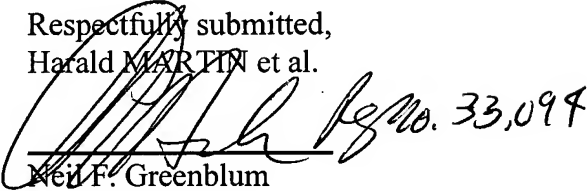
In view of the above, the rejections of record should be withdrawn, and all of the pending claims indicated to be allowable.

CONCLUSION

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the objections and rejections of record, and allow each of the pending claims. Applicants therefore respectfully request that an early notification of allowance of the application be indicated by the mailing of the Notices of Allowance and Allowability.

Should the Examiner have any questions regarding this application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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